

111TH CONGRESS  
2D SESSION

# S. 3764

To amend section 1716E of title 18, United States Code, to clarify the application of the exception for the noncommercial mailing of tobacco products to members of the Armed Forces.

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## IN THE SENATE OF THE UNITED STATES

AUGUST 5, 2010

Mr. KOHL introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

To amend section 1716E of title 18, United States Code, to clarify the application of the exception for the noncommercial mailing of tobacco products to members of the Armed Forces.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. MAILING OF TOBACCO PRODUCTS.**

4       (a) FINDINGS; PURPOSE.—

5               (1) FINDINGS.—Congress finds the following:

6                       (A) The PACT Act (Public Law 111–154;  
7               124 Stat. 1087) was intended to address the  
8               problem of cigarette trafficking and prevent mi-

1           nors from obtaining cigarettes. The PACT Act  
2           does so by, among other things, making ciga-  
3           rettes and smokeless tobacco generally non-  
4           mailable to consumers through the United  
5           States Postal Service.

6           (B) The PACT Act included an exception  
7           to nonmailability for noncommercial mailings  
8           between 2 adults. This was included expressly  
9           to allow for care packages to members of the  
10          Armed Forces.

11          (C) The regulations governing the mailing  
12          of cigarettes and smokeless tobacco under that  
13          exception issued by the United States Postal  
14          Service required that tobacco products be sent  
15          via Express Mail. However, Express Mail deliv-  
16          ery is not available in Iraq and Afghanistan,  
17          where many members of the Armed Forces are  
18          stationed. This is expressly contrary to congres-  
19          sional intent that care packages containing  
20          cigarettes and smokeless tobacco be allowed.

21          (2) PURPOSE.—This Act makes technical cor-  
22          rections to ensure that members of the Armed  
23          Forces may receive care packages containing ciga-  
24          rettes and smokeless tobacco products.

1 (b) MAILING.—Section 1716E(b)(4)(B)(ii) of title  
2 18, United States Code, is amended—

3 (1) in subclause (III), by inserting “that is not  
4 a mailing to a recipient at an Air/Army Postal Of-  
5 fice or Fleet Postal Office for a location outside the  
6 United States” after “under this paragraph”;

7 (2) in subclause (IV), by inserting “that is not  
8 a mailing to a recipient at an Air/Army Postal Of-  
9 fice or Fleet Postal Office for a location outside the  
10 United States” after “subparagraph (A)”;

11 (3) in subclause (V), by inserting “that is not  
12 a mailing to a recipient at an Air/Army Postal Of-  
13 fice or Fleet Postal Office for a location outside the  
14 United States” after “subparagraph (A)”;

15 (4) in subclause (VI)—

16 (A) by striking “Postal Service shall de-  
17 liver” and inserting the following: “Postal Serv-  
18 ice shall—

19 “(aa) deliver”; and

20 (B) by striking “at the recipient address or  
21 transfer” and all that follows and inserting the  
22 following: “at the recipient address; or

23 “(bb) for a mailing to a re-  
24 cipient at an Air/Army Postal Of-  
25 fice or Fleet Postal Office for a

1 location outside the United  
2 States, transfer the package for  
3 delivery to the Air/Army Postal  
4 Office or Fleet Postal Office  
5 number designated in the recipi-  
6 ent address, without verifying  
7 whether the recipient is a minor;  
8 and”.

9 (c) IMPLEMENTATION; REVISED REGULATIONS.—  
10 The Postmaster General shall—

11 (1) immediately implement the amendments  
12 made by subsection (b); and

13 (2) not later than 30 days after the date of en-  
14 actment of this Act, and without regard to the provi-  
15 sions of chapter 5 of title 5, United States Code,  
16 promulgate revised regulations to carry out the ex-  
17 ception to the nonmailability of tobacco products  
18 under section 1716E(b)(4) of title 18, United States  
19 Code, as amended by subsection (b).

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